

SOUTHERN SAN JOAQUIN VALLEY WATER QUALITY COALITION

**Kaweah River Sub-Watershed
Kern River Sub-Watershed
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VIA ELECTRONIC MAIL

Margie Lopez-Read
CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD, CENTRAL VALLEY
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114

RE: RESPONSE TO NEW MRP

Dear Margie:

Coalition Submittal

We are in receipt of the recently noticed MRP revisions. We recognize some changes were made which address some of the points we had filed October 23. There were other important issues which were not addressed, however. Those are limited in number but remain important and are referenced below:

1. (G.) We had questioned the term "probalistic" being the focus of the monitoring sites. Our comments were:

"There is some confusion over the term of locating monitoring sites based on the site being "probabilistic." It seems like the intention here is to have random site selection and not necessarily require the sites to be at places where there are problems." (Pg. 8)

2. (H.) Very importantly, the staff draft would mandate a full monitoring effort even in the months when no irrigation water is being delivered. This would needlessly drive up coalition monitoring costs by two to three times. The waiver is to deal with irrigation (and storm) run off to surface waters of the state. It does not address ground water, nor other local non-storm water, which is not related to irrigation and it does not deal with ditch water on private lands. Moreover, coalitions can only effectively deal with irrigation water. Beyond this

there will not be water to monitor during many of the non-irrigation delivery months. Our previously submitted comments had been:

"As stated throughout the Focus Group and TIC meetings, we resist the requirement of 12 monthly monitoring events. We will monitor (as the MRP now requires) for storm water at two storm events and we will monitor irrigation run off during the irrigation delivery season. But we resist monitoring in every month, particularly when there is no waiver purpose for such monitoring. (Pg. 9)

We remind that the original and everlasting premise of the waiver is to require monitoring but it would not involve two characteristics. One, this would not be considered a scientific, educational survey mission. Secondly, it would not constitute monitoring for enforcement purposes. Instead, it would be representative of monitoring irrigation return flow of the surface water irrigation. Requiring monthly monitoring throughout the entirety of the year goes beyond this purpose and gets into the forbidden zone of monitoring for other purposes or for mere information."

3. (J.) The question we presented as to E-coli was not answered. Our question was:

"What is the purpose of requiring E-coli monitoring. There is no basin plan standard for E-coli such that there are no "exceedances" that are compelled to be reported for E-coli monitoring? (Pg. 12)"

4. (M.) The draft still retains the very unscientific provision that if you do not find a particular condition (i.e., sediment) at the monitoring site you should move the monitoring site until you find the data you want. If you find no water, you record it. If there is no storm water, you so record that. If you find no pesticide, you record that. You do not move around the state until you find a positive reading. This is incredibly unscientific and is likely to be resisted. Our comments were:

"The language under sediment testing is confusing. It indicates that if at a monitoring event there is no sediment available at that site, that folks would shift positions to monitor some other location. Negative results are data. If there happens to be no sediment, quite like if there happens to be no water, that is recorded, and that is data. We do not go all around the coalition area looking for some other place where we may be able to record a "positive" find when the official monitoring site would have a "negative" find. (Pg. 16)"

5. (N.) The staff draft continues to demand three quarterly reports beyond the filing of annual, exceedance, communication and possibly management reports. These are needless and drive unwarranted expenses. Even though the newly proposed quarterly reports may be abbreviated reports, it will still take thousands of dollars to prepare, coordinate and file such reports – all for no positive purpose whatsoever. Our comments were:

"It has been our position that bifurcating the year and reporting some partial data twice during the year has taken away from some of the analytical merit in reporting. A single annual report (as originally required) is far preferable over the two semi-annual reports now required.

This proposed MRP worsens the situation even further by requiring quarterly reports and an annual report. We recognize that three of the quarterly reports can be somewhat less onerous than the annual report, but there is no real purpose in again increasing the obligation of coalitions to file four separate reports a year.

Presently, exceedance reports are required soon after results are known. Subsequent thereto, communication reports are to be filed. If there are multiple exceedances at the same spot within a fixed period of time monitoring plans are also required. Annual reports, on top of these other three categories of reports, are more than sufficient.

The three proposed additional quarterly coalition obligations serve no need, detract from report continuity and needlessly increase expenses, obligations, as well as amount to a deflection of time from doing meaningful water quality work. Moreover, the coalitions never hear back from the staff for months relative to any exceedance report and, certainly, it is more than half a year to hear back on an annual report. Thus, there is no timeliness argument to support these quarterly reports."

We redirect the Board's attention to these remaining important points.

Kern County Water Agency Submittal

Margie, as you know, Lloyd Fryer of Kern County Water Agency had also submitted six additional comments to the Regional Board.

His first and fourth points had to do with the notion that "all waters within the Coalition boundaries" need to be tested. This parallels point F in my submittal. Lloyd stated:

"It should be stated that the MRP only applies to surface waters of the state. This will avoid a number of ambiguities which would otherwise arise on page 3 of the MRP regarding its scope."

"Page 7 suggests this MRP is aimed at characterizing water quality 'all waters of the State within the Coalition Group's boundaries.' The Agency has consistently argued against turning the agricultural waiver program into a wide-ranging water quality monitoring program. The language should be modified to clearly indicate that the characterization of water quality is only for waters of the State which receive discharges from irrigated lands."

Lloyd's second point was to advance an improvement in the Regional Board's Question #1 the new staff draft did not pick up on his good suggestion. Lloyd stated:

"Question 1 on page 3 does not make sense. Consider rewriting it as follows: Are beneficial uses in waters of the State within Coalition Group boundaries adequately protected against diminution by discharges of wastes from irrigated agriculture activities?"

Lloyd's third point regarding nutrient management/regulation was not responded to or included. We can certainly monitor for nutrients, but management plans, controls over inputs and measuring/reporting of inputs are effectively impossible as to nutrient fertilizers. Lloyd stated:

"Page 6 specifies that a description of the study area would include nutrients being applied. Because nutrient use for agricultural purposes is generally not regulated there is no reliable method of providing this information. Some nutrient uses can be quantified and reported, such as use of sewage sludge for fertilizer, while others cannot. The Central Valley Regional Water Quality Control Board must understand the limitations of available nutrient data. There is no benefit to requiring a task which cannot be performed. It needlessly opens the door to unjustified criticisms."

Lloyd's fifth point regarding the new overall structure of multiple layers of monitoring is a valid point. The staff did not address it and I think therein lies the core measure of the new MRP monitoring structure – will it prove to provide appropriate flexibility so as to allow coalitions to truly design and justify their monitoring regime?

As we have queried throughout the TIC and all discussions involving the proposed MRP, we need to be certain that the monitoring plans will have the

flexibility to reduce monitoring obligations as the monitoring data indicates an absence of water problems. This may be to modify the monitoring regimes or reduce frequency as two or three years of data shows no specific impairment. Lloyd had observed:

"The concept of assessment monitoring, core monitoring and special project monitoring is financially troubling. These multiple levels of monitoring could take place simultaneously, greatly increasing overall monitoring costs without necessarily generating useful information. For instance, repeating the assessment monitoring every three years may or may not be useful in areas dominated by permanent crops (no change in cropping patterns). The MRP should be modified to provide the Executive Officer, in consultation with individual Coalition Groups, the flexibility for determining the frequency of assessment monitoring."

Lloyd's sixth point ties into point H on my submittal relating to requiring 12 months of monitoring irrespective of any water availability or the presence of irrigation water delivery. Lloyd stated:

"On page 10 monthly sampling of assessment monitoring sites is required, with at least two storm events annually per site. This is simply not possible in Kern County. The only way to guarantee at least two storm events are sampled at least twice annually in Kern County is to move higher up into the watershed where there is no irrigated agriculture. This language must be modified to be MRP specific."

Very truly yours,
/s/ William J. Thomas
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On behalf of the
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